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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	85864264
Applicant	Shanon Preston
Applied for Mark	GET CENSORED
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**In The United States Patent And Trademark Office  
Before the Trademark Trial and Appeal Board**

**Mark: GET CENSORED [plus design]**

**Applicant: Shanon Preston**

**Serial No.: 85/864,264**

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**Examining Attorney: Wendell S. Phillips III**

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**Applicant's Reply Brief**

In support of Examiner's assertions, Examiner introduced website evidence and summarized that evidence in a bulleted list on page 5 of Examiner's Statement. However, Examiner's evidence supports the well-understood idea that a manufacturer's/owner's retail establishments do not commonly sell the goods of third parties. Here is the Examiner's evidence, recast to highlight the Owner's online retail stores that also feature any third-party goods on the portions of the website submitted by the Examiner.

Mark Used on Goods	Third-Party Goods?	Nature of Evidence
BCBGMAXAZRIA	No	Owner's online retail store
BROOKS BROTHERS	No	Owner's online retail store
EXPRESS	No	Owner's online retail store
FOREVER 21	No	Owner's online retail store
J. CREW	No	Owner's online retail store
RAG & BONE	No	Owner's online retail store
ROXY	No	Owner's online retail store
TORY BURCH	No	Owner's online retail store

Examiner's evidence shows that generally, an Owner's online retail store *does not include the goods of third parties*. Examiner's own evidences tends to support the notion that Applicant's amendment to limit on his Goods and Services is a limitation that significantly reduces any likelihood of confusion. Examiner's interpretation of Applicant's identification does not give any weight to the term "Owner"; yet, Examiner's evidence shows that Owner's stores only carry the Owner's merchandise.

Examiner's has cited *In re Midwest Gaming & Entertainment LLC*, 106 USPQ2d 1163 (TTAB 2013) for the proposition that a broader identification encompasses any normal channels of trade for those goods or services, including those in a narrower identification. Specifically, *In Re Midwest Gaming* considered where a bar was encompassed within a casino, compared to, a stand alone bar and restaurant. In this case, there is no encompassing of one physical entity within another physical entity to narrow the channels of trade.

The situation in *In re Midwest Gaming* further differs from current situation, because, Applicant's identification goes to the heart of preventing confusion: it more precisely identifies the source of the goods. Said another way, the Owner's online store is not a narrower channel of trade encompassed within a larger channel of trade. It is an independent channel, that by its own existence, assists the consumer to identify the ultimate source of the goods. An Owner's store

would never offer Registrant's good, by custom within the apparel industry, as reflected by Examiner's own evidence.

Yours truly,

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